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The Solicitors' Journal

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Current Topics.

Speeding Up.

SO MUCH has been said recently about the law's delays and the enormous amount of litigation that is awaiting disposal, that the following incident has particular interest. There were set down in the Cause List on Wednesday, the 25th February, six common jury cases for hearing before Mr. Justice ROWLATT. Of those six, three were settled and one was directed to stand over. Addressing the jury, his lordship said: "People talk about arrears of work in the Law Courts, it will be seen that these arrears exist mostly on paper. When these cases were called on, you see what happened." The Chancery Division, undoubtedly, has suffered the most delay recently, partly through the unfortunate illness of some of the judges, and partly on account of the heavy nature of a few of the cases. On the other hand, much, of course, has already been done to diminish the initial lengthy divorce list.

Unnecessary Expense.

"GAMBLING WITH public money" was the not undeserved comment made by the learned magistrate of the Marylebone Police Court on Home Office procedure as revealed in two summonses under the Factory Acts which had been remitted to him on appeal by the Divisional Court with instructions to convict. The magistrate told the Home Office Inspector who had conducted the original proceedings that the case had not been well argued by him, and when it was dismissed the Home Office had rushed off to the Divisional Court, where the case was properly argued by the Attorney-General; it was ridiculous that a public authority should have come into court summoned in this way. Counsel for the defendants pointed out that the result had been that his clients had to pay the whole costs of the appeal as well as the defence of the original proceedings. It is quite true that under s. 120, Factory and Workshop Act, 1901, the Home Office is empowered to authorise factory inspectors who have no legal training to conduct proceedings in court, but we would strongly urge that this power should be used with discrimination, in the interests of the public purse as well as of the parties more directly concerned. For example, the department might instruct its factory inspectors as a general principle only to continue personally to conduct the prosecution of those charges to which the defendants plead "guilty," and in other instances to apply to the court for an adjournment.

Strangers in the House.

THE INCIDENT last week when a Member of Parliament "spied strangers" and had a solitary survivor turned out of the gallery of the House of Commons seems somewhat of an anachronism in these days when the fierce light of publicity beats upon all that takes place at St. Stephen's. At one time, and that not so far distant, motions for the exclusion of strangers were of frequent occurrence, the House watching with great jealousy any infraction of the rule by which no one other than a member was allowed access to its precincts. For this attitude there may have been grounds in days when it occasionally happened that a stranger pushed his way into the floor of the House, for we are told that as late as 1771 a stranger was actually counted in a division. Again, reports, by which alone most of us get our information regarding proceedings in Parliament, were severely frowned upon, and, as we all know, there ensued a long and bitter struggle before newspapers obtained recognition in a gallery of their own—a struggle which has a constitutional importance. Nowadays, the exclusion of strangers is, happily, of rare occurrence, and is as a rule resorted to only if those admitted to the gallery are guilty of some breach of the rules. It appears that strangers are, nominally at least, under very strict regulations; thus, no member of the public may read a book or newspaper there; apparently he is expected to give his whole attention to the proceedings taking place on the floor of the House. It may be added that the prohibition against the reading of newspapers is not confined to the House of Commons. We are told in the late Mr. OSWALD'S treatise on "Contempt of Court," that "It is not respectful to the court to read newspapers, however respectable, at the bar in view of the judge"; the parenthesis is delicious. More than once the present writer has heard attention called from the bench to infringements of this rule, which, it may be assumed, has come down to us from times when the power of the press had not established itself as it has in these days.

The Positive Witness.

THE CASE of *R.* v. *McLocklin* (1930), 22 Cr. App. R. 138, is instructive on the ever troublesome question of identification. The appellant was convicted solely on the evidence of one

witness. Before he gave evidence, the witness admitted that he was not certain who the person concerned was. At the trial he swore that the appellant was the man. AVORY, J., giving the judgment of the Court of Criminal Appeal, which quashed the conviction, said, "It is significant that at the time when this witness was expressing some doubt a police officer, no doubt without any improper motive, said to him, 'Well, we can't act unless you are positive,' and that, by the time witness came to give his evidence, he was positive." We know that kind of witness and a thoroughly dangerous one he is. He usually begins by picking out, at the identification parade, not the man whom he thinks did the deed, but the member of the party who most nearly resembles the hazy portrait in his own mind of that man. Each time he sees the accused he gets more certain, until at last no doubt remains. He is then identifying, not the person whom he has seen at the place where the crime was committed, but the person he has seen at the police station and then at the police court. The next instalment of the mischief is supplied by those who try the accused. It is much more difficult to base a judgment on doubtful and conflicting evidence than upon a clear and positive statement. In the delicate business of assessing guilt it is so satisfactory to have a definite something to hold to. The haze is left hazy; the one assertion of fact stands out, and becomes decisive. Accordingly, in the case which prompts these remarks, "the chairman in his summing up made no reference to the doubts expressed by the witness." It is one more instance of the fatal course so often taken in criminal cases of trying to find whether the accused is guilty or innocent, when the true issue is, "Is the evidence sufficient or not to justify conviction?"

Delay in Claiming Compensation.

TWO INTERESTING cases have been heard within recent months bearing on the interpretation of the words "mistake or other reasonable cause," in s. 14 of the Workmen's Compensation Act, 1925. That section provides that if "mistake or other reasonable cause" can be proved, it will be an answer to a plea that the claim was not made within the prescribed period of six months. In one case the workman had given notice of the accident on the day of its occurrence and shortly afterwards made a verbal claim for £1,000 damages. Later his solicitors wrote reducing that claim to £250. The subsequent negotiations proving fruitless, a claim was made under the Workmen's Compensation Act, the date of this claim being more than three years after the accident. The Second Division of the Scottish Court of Session held that the circumstances did not constitute a reasonable cause for the failure to claim in time. The second case answered the question whether ignorance of the Act was a "reasonable cause." Here an aged workman entirely illiterate, was, when his accident occurred, unaware of his rights under the Workmen's Compensation Act. Being a contributor to his employers' benevolent fund he received varying sums during his incapacity. After six months these payments stopped, and it was only then that in casual conversation with a neighbour he learned of his rights under the Act. His claim was dismissed, the Sheriff deciding that ignorance of the Act was not a "reasonable cause" for failure to claim in time.

Contract to Use Influence—What it Imports.

AN INTERESTING point upon the law of contract was raised in *General Asphalt Company and Barber Asphalt Company* v. *Anglo-Saxon Petroleum Company Limited* (*The Times*, 19th February, 1931). The defendants had agreed to obtain control of the Burlington Investment Trust Company, which possessed a preponderant shareholding interest in the Colon Development Company, which owned an oil concession over certain lands in Venezuela. The facts in the case were complicated, but it will be sufficient for our purpose to note that the decision turned upon the short point whether the agreement to use influence included, among the obligations which it involved, the payment of money. That such a contract might do so was clear; ROCHE, J., observing (in the words of the report) that "the ways in which influence could be exercised were infinite; influence might be exercised by the payment of money, and a stipulation that influence should be exerted might carry with it an obligation to pay money." And upon the defendants admitting that they could have, and could still procure delivery of the oil in question by giving sufficient consideration to the Colon Development Company, it was held that they were bound by the contract to do so. It would appear that in such a case the onus is upon the defendant to prove that he has taken reasonable steps to discharge the obligations imposed by the contract. Thus in *Linder* v. *Prior* (1838), 8 Car. & P. 518, it was held that a lessee who had undertaken to "use his best endeavours" to keep certain premises open as a public-house, to increase the trade, etc., had not discharged the obligation by remaining quiescent upon the licence being withdrawn by order of the magistrates. "It is my opinion . . .," said TINDAL, C.J., "that it is incumbent on him to show that he did some act after the refusal to renew the licence—that he applied for a re-hearing of the case, or did some act to endeavour to obtain the continuance of it, and get the house open again." Though the decision in each particular case must, of course, depend ultimately upon the individual facts found therein, it appears that as a matter of general principle the court will give a fairly wide construction to undertakings of this nature.

Congé d'élire.

WE READ in "Boswell" that a gentleman having said in Dr. JOHNSON's hearing that a *congé d'élire* has not perhaps the force of a command, but may be considered only as a strong recommendation, the doctor replied that: "it is such a recommendation as if I should throw you out of a two-pair window, and recommend you to fall soft." Whether this shrewd observation of Johnson was in the mind of the Canon of Worcester who, recently at a meeting of the Chapter assembled for the election of Dr. PEROWNE as bishop of the diocese, moved a resolution that, "in view of the notorious fact that the procedure to which we are cited is not a free election, the Chapter declines to go through the form of electing a bishop, and with all respect leaves it to His Majesty to take the alternative course provided by law of filling the vacant see by letters patent," we do not know, but he was at least logical. Lord HALSBURY, in a famous case, declared that the law is not logical, and the same may be said of not a few of the institutions of our country besides that concerned with the administration of justice. It must strike everyone, however, that the procedure adopted in connexion with the election of a bishop is peculiarly out of harmony with the solemnity of the occasion. To give a body of the clergy "leave to elect" one to be their bishop, and at the same time to accompany the "leave" with a missive informing them whom they must elect would be considered in any other connexion as an indefensible artifice. The *congé d'élire* has, however, been consecrated by some centuries of use and is, we suppose, proof against all attacks of those who pay regard to the meaning of words and things. It is worth remembering that in the reign of EDWARD VI an Act was passed which, after reciting that "forasmuch as elections of Archbishops and Bishops by the Deans and Chapters are in very deed no election but only by writ of *congé d'élire* have colours, shadows and pretences of elections," proceeded to enact that for the future no *congé d'élire* should be granted and no elections by the Dean and Chapter be made, but that the King should appoint by his letters patent. This Act was short-lived and the procedure by *congé d'élire* restored. The illogicality of the procedure is emphasised when we remember that if the Dean and Chapter fail, within a certain number of days, to elect the person whom they are required to choose, they are liable to a *præmunire*, which sounds very dreadful although no one appears to know exactly what it means.

Criminal Law and Practice.

EVIDENCE OF DRUNKENNESS.—In a case before a London magistrate recently, a man who had pleaded guilty to a charge of being drunk and disorderly was said by a police surgeon not to have been drunk. The magistrate thereupon suggested to the man that he should withdraw his plea, and the man pleaded not guilty. In the end he was fined for insulting behaviour.

Doctors differ very much in their standards of sobriety; and if a man himself admits he was drunk, and if a police officer also thinks he was drunk, we suggest that the fact that a doctor thought otherwise does not conclude the matter. It is for the court to decide upon all the evidence. The police would, and we believe do, inform the court, in fairness to the prisoner, when a doctor has pronounced in favour of the defendant or has certified something less than drunkenness, such as "under the influence of drink," or "recovering from the effects of drink."

No doubt in the case referred to the magistrate saw that the prisoner's plea of guilty was not sufficiently decided for him to act upon it in the circumstances.

WHAT IS A PLEA OF GUILTY?—Courts of quarter sessions have been known to complain that insufficient use is made by examining justices of the provisions of s. 19 of the Criminal Justice Act, 1925, which gives power to dispense with a grand jury where all the persons committed for trial have pleaded guilty or admitted the truth of the charge and certificates have been forwarded in pursuance of s. 4 of the Administration of Justice Act, 1920. Equally, it is said, too little advantage is taken of s. 13 of the 1925 Act whereby witnesses can be bound over conditionally and need not, in fact, be required in many cases to attend the trial at all.

Probably the reason why so few certificates under s. 4 of the Administration of Justice Act, 1920, are furnished by clerks to justices is that what constitutes a plea of guilty or an admission of the truth of the charge within the meaning of s. 19 of the Criminal Justice Act, 1925, is itself a question of some difficulty. Upon committal for trial, a defendant is not formally called upon to plead, and indeed most commonly the view is held that the justices have no authority to ask for a plea from an accused person whom they are not trying but only committing for trial.

If, therefore, there be a "plea" or an admission it must be embodied in some statement made by the accused during the course of the proceedings, possibly after the caution has been read to him upon committal. In a few cases a defendant volunteers the statement: "I plead guilty." This would generally be held sufficient, of course, to justify the clerk in signing a certificate. More often, however, the accused, if he says anything, makes a statement in less definite form. He might say: "What the witnesses have said is true," or "I admit it," or "I did it," or "I admit I had the money," or "I certainly don't dispute striking the man." These statements, we think, are too equivocal to be taken as pleas or admissions of guilt. A person may admit acts without meaning to admit guilty intention, or with a reservation of justification; further, he may not understand all the legal ingredients of an offence, and it is the business of the court that tries him, rather than of the examining justices, to ascertain the precise attitude of the accused. A clerk is therefore justified in refraining from certifying that the accused pleaded guilty or admitted the truth of the charge when there is any room for doubt upon the subject.

Precisely what is the difference between pleading guilty and admitting the truth of an information or charge it is difficult to define. The case of *R.* v. *Campbell* [1921] 2 K.B. 473; 85 J.P. 189; 90 L.J. K.B. 818, illustrates this point most clearly. A plea of guilty, to be acted upon, must be unambiguous: see *R.* v. *Golathan* (1915), 79 J.P. 270: 84 L.J. K.B. 758; and where there is a doubt it is sound practice to treat a statement as neither a plea nor an admission.

Injuries to Children Trespassing upon Dangerous Premises.

THE rights of a trespassing child have never been easy to define with precision, but the cases of *Addie* v. *Dumbreck* [1929] A.C. 358, and *Excelsior Wire Rope Co.* v. *Callan* [1930] A.C. 404, two decisions of the House of Lords, obscure rather than clarify the position. The decision of a Divisional Court (SCRUTTON and LAWRENCE, L.JJ., sitting as additional judges of the King's Bench Division) in *Mourton* v. *Poulter* [1930] 2 K.B. 183, has, however, indicated that *Excelsior Company's Case* is to be followed in preference to *Addie's Case*.

In *Addie* v. *Dumbreck, supra*, a boy of four years was killed by the terminal wheel of a haulage system belonging to a colliery company. This wheel was not visible from the colliery premises. The machinery was in a field surrounded by a hedge insufficient to keep out the public, and the field was, to the knowledge of the company, used as a playground by young children. The company's officials warned the children from time to time, but such warnings were disregarded. The wheel itself was dangerous and attractive to children and, at the time of the accident, insufficiently protected. The accident occurred by the wheel being started by the company's officials without warning and without any precautions to avoid an accident to persons frequenting the field.

The House of Lords held that the boy was a trespasser who went on the premises at his own risk, and the company owed no duty to protect him from injury.

The facts in *Excelsior Wire Rope Co.* v. *Callan, supra*, were, in many respects, similar to those set out immediately above. A company under licence from an adjoining landowner constructed a siding and haulage machinery upon his land. The haulage system necessitated a pulley-block called a sheave. The siding adjoined some fields and the boundary fence had disappeared. To the knowledge of the company, children frequented the field and played with the sheave without interruption, except when the company wished to move trucks about three times a week. On the occasion in question, the company's servants, as was their practice, walked to the sheave to adjust the rope and drive off the children. After the men went back to start the machinery a little girl was seen swinging on the rope, and was injured when the machine was started, as was her little brother who went to her rescue.

The House of Lords held that, it being well known to the company that when the machine started it was likely that children would be near the sheave, the duty owed by the company when they started the machine was to see that no child was in such a position as to be exposed to danger by the occasional use to which the machine was put. The immediate danger being apparent, it was not material whether the children were or were not trespassers.

The first question in this class of case is directed to the capacity in which the injured party comes upon the premises. Is he an invitee, a licensee or a trespasser? To draw a distinction between *Addie's Case* and *Excelsior Company's Case* on this ground would be, it seems, ineffective in view of the judgments in the latter case, where it was held that:—

(1) The question of capacity was not germane, because the company were not occupiers of the land on which the machinery was placed; and

(2) The company's conduct was such that, even had the children been trespassers, they would still have been entitled to recover.

These two cases might have been distinguished on this ground, had not the House of Lords taken this attitude, for it is arguable that the children in *Excelsior Company's Case* were licensees in the sense of the decided cases: *Cooke* v. *The Midland Great Western Railway of Ireland* [1909] A.C. 229; *Jenkins* v. *Great Western Railway Co.* [1912] 1 K.B. 525. This contention is much strengthened by words of Viscount

DUNEDIN, when he said " . . . the mere fact that the appellants were not occupiers of the land on which the sheave was placed does not in my judgment remove the case from the category of those cases where the land was in the occupation of the person owning the dangerous machine. The appellants here had the right to keep children away from the sheave, and if it had been necessary I would have been prepared to find that the children were licensees in the sense of the decided cases, because I think that the word 'licensee' in the cases that have to do with this subject, though not probably a perfectly accurate word, is certainly intended to include another class, if you so call it, which I may coin a word to represent, namely, a permittee."

The facts in Excelsior Company's case show that :—

(1) The company owned the sheave, and therefore, had the right to keep children away from it.

(2) The children, except at such times—and they were few—as it was worked, were allowed to play not merely about the sheave but with it.

(3) No general warning was given, as in *Addie's Case*, but merely a warning on each occasion the sheave was required.

It is submitted that these facts show such acquiescence on the part of the company as to transform the children into licensees. A licence, at any rate as regards the sheave, ought to be implied.

If the children were licensees, what was the effect of the warning ? A warning in the case of a child licensee may be insufficient to discharge the duty owed to him. The following words of Viscount DUNEDIN in *Addie's Case* are in point : " The truth is that in cases of trespass there can be no difference in the case of children and adults, because if there is no duty to take care that cannot vary according to who is the trespasser. It is quite otherwise in the case of licensees, because there you are brought into contact with what is known as trap and allurement." Further a licence once granted may be revoked, but if a warning is insufficient to discharge the duty owed to a child licensee, it cannot be sufficient to effect a revocation of the licence.

This possible distinction between the cases is, however, ineffective. If there is a distinction, it must be either on the facts or in the principles of law applicable to trespassing children.

In *Addie's Case* it was said that a trespasser comes upon premises at his own risk, for, in the words of Lord HAILSHAM, L.C., " an occupier is in such a case liable only where the injury is due to some wilful act involving something more than the absence of reasonable care. There must be some act done with the deliberate intention of doing harm to the trespasser, or at least some act done with reckless disregard of the presence of the trespasser." This principle passed unchallenged in *Excelsior Company's Case*, and therefore it is necessary to examine the facts of both cases to ascertain whether there is anything which marks the Excelsior Company's conduct as " reckless disregard of the presence of a trespasser."

The Excelsior Company knew that children frequented the siding and played with the sheave, but in *Addie's Case* it was equally well known that children used the field as a playground. The Excelsior Company warned the children only when the sheave was to be worked. In *Addie's Case* they were warned from time to time, but at no particular time. The Excelsior Company knew, because their servants drove them off, that, just prior to starting the machine, children were playing with it. In *Addie's Case* there was no such knowledge.

On these facts the knowledge of each company was knowledge that children *were likely to be present*. It may be that the fact that the servant of Excelsior Company saw and drove off the children a short space of time before the accident, increased that knowledge. But this line is a fine one. SCRUTTON, L.J., in *Mourton* v. *Poulter*, *supra*, pointed out the only distinction which occurred to him. He said : " . . . in *Addie's Case* the people who set the wire rope in motion were down a hill at a place from which they could not see the wheel and the children who were beside it, while in the *Wire Rope Company's Case* the man who gave the signal to start the wheel was standing only about 20 yards away from it, and could have seen it and the children, if he had looked round, without moving from his position." It is a curious thing that a company which builds its haulage machinery on level ground is liable, whereas a company which places its machinery in a position in which it cannot be seen from the company's premises escapes liability.

In the headnote to *Excelsior Company's Case*, it is stated that " after the men went back to start the machine a little girl, aged five, was seen swinging on the rope." It is not clear who saw the girl, but, of course, if it were the man who gave the signal, it would not be necessary to seek further for " reckless disregard."

There is, of course, another possibility—that the Excelsior Company created a duty by giving particular warnings. Lord THANKERTON would appear to have expressed this view when he said : " . . . the children not only had constant and free access to the machine itself, but clearly to the knowledge of the appellants they were in the habit of interfering and playing with both the post and the wire rope, and it was only when the occasion of putting the machine into operation arose that there was any question of keeping the children away from that spot. My lords, that last fact itself appears to me to recognise a necessity and a duty to see that the children were away from this dangerous machine."

Careful consideration of *Addie* v. *Dumbreck*, *supra*, and *Excelsior Wire Rope Co.* v. *Callan*, *supra*, must lead to two conclusions :—

(1) That the latter case does not purport to effect any alteration of the principles of law applicable to trespassing children, and

(2) That the distinction between the two cases, if any, must be drawn on the facts.

There is to be considered, however, the case of *Mourton* v. *Poulter*, *supra*. There, a piece of waste land adjoined the highway and was unfenced. Children, without any licence to do so, used it as a playground. By a contract with the owner, the defendant undertook to cut down a large tree thereon. On the day on which the tree was expected to fall there were many children on the land, and they were driven off more than once by the defendant or his assistant. At 5.15 p.m. the tree was held by one root only, and the defendant, knowing that when that root was cut the tree would fall in two minutes and without any further warning to the children, cut the last root whereupon the tree fell and injured the plaintiff, a boy of ten years.

A Divisional Court held—

(1) that the defendant owed a duty even to a trespasser not to do any act, which would alter the condition of the land and might injure him, without giving him warning ; and

(2) that the judge, in finding that the defendant had been negligent had found that he had committed a breach of that duty.

It is a matter of interest that in this case the defendant was no more an occupier of the land than the company in *Excelsior Company's Case*. But, whereas much was made of this point in the earlier case, *Mourton* v. *Poulter* was decided upon the basis that the children were trespassers. If the judgment of Lord ATKIN (for instance), in *Excelsior Company's Case* is to be followed, it is a little difficult to see how the capacity of the plaintiff in *Mourton* v. *Poulter* was relevant.

From *Mourton* v. *Poulter*, however, there emerges the difference between the case of a continuing trap and the case where a man does something to alter the condition of the land. SCRUTTON, L.J., said : " The liability of an owner of land to

trespassers does not arise where there is on the land a continuing trap, such as that which was considered in a case in the Supreme Court of the United States of an innocent-looking pond which contained poisonous matter: *United Zinc and Chemical Co.* v. *Britt* (1922), 258 U.S. 268. There, as the land remains in the same state, a trespasser must take it as he finds it, and the owner is not bound to warn him. That, however, is a different case from the case in which a man does something which makes a change in the condition of the land, as where he starts a wheel, fells a tree or sets off a blast when he knows that people are standing near. In each of these cases he owes a duty to these people even though they are trespassers to take care to give them warning."

This *dictum* is applicable both to *Addie's Case* and to *Excelsior Company's Case*, for in both the defendants did something to change the condition of the land. When, therefore, it is stated that a trespasser comes upon premises at his own risk, it is a continuing trap that is contemplated. "Salmond on Torts" (6th Ed., p. 454) states the matter thus: "The occupiers' exemption from any duty of care to a trespasser applies only to the dangerous state of the premises, not to acts done on the premises with knowledge of the trespasser's presence." If it is known that a trespasser is present, and if the act is likely to injure such trespasser, the duty is to take reasonable steps to see that the trespasser is not exposed to injury from the created danger, e.g., by warning. When the trespasser is a child, a warning may be insufficient, for, if there is a duty, the words of Viscount DUNEDIN in *Addie's Case* are not applicable.

The principle enunciated immediately above may reasonably be supposed, in view of *Excelsior Company's Case*, to extend to trespassers likely to be present to the knowledge of the occupier. If this is so, then it would seem that *Addie's Case* is wrongly decided, because there the company knew that the children used the field as a playground, and, therefore, that they were likely to be present when the machine was started. But SCRUTTON, L.J., in *Mourton* v. *Poulter*, appears to limit the duty to trespassers known to be present.

When a child is injured upon dangerous premises, two questions present themselves: (1) in what capacity did the child come upon the premises, and (2) having regard to that capacity, what duty is owed to him.

The concern of this article has been the trespasser, and it is often difficult to distinguish between him and a licensee. Acquiescence may transform a trespasser into a licensee, but Viscount DUNEDIN in *Addie's Case* had something to say on this point. He said: ". . . . there are certainly to be found among them (the authorities) expressions which would countenance the idea against which I wish to raise my protest: that, unless a proprietor takes such measures as effectively stop trespass, the trespasser becomes a licensee . . . when a proprietor protests and goes on protesting, turning away people when he meets them, as he did here, and giving no countenance in anything that he does to their presence there, then I think no court has a right to say that permission must be implied."

Having found that the child is a trespasser, it remains to summarise the principles of law applicable to his case. Injuries to a trespassing child fall under one of two heads: (1) Those caused by the dangerous state of the land, and (2) those caused by an act which alters the state of the land.

(1) When a trespasser comes upon land in a dangerous state, he comes at his own risk: *Mourton* v. *Poulter*, *supra*. There is no duty to take care and, therefore, no difference in the case of children and adults: *Addie* v. *Dumbreck*, *supra*.

(2) When an occupier does something which makes a change in the condition of the land, he owes a duty not to expose a trespasser to injury from the created danger: *Mourton* v. *Poulter*, *supra*. This rule certainly includes trespassers of whose presence he is aware, but whether it extends to trespassers who, to his knowledge, are likely to be present is a matter which awaits the refining influences of the House of Lords.

As there is a duty not to expose known trespassers to the dangers of a created trap, that duty is more extensive in the case of children than in the case of adults. So, in a case where it would be sufficient to warn an adult, the duty may, in the case of a child, be a duty to keep him away.

Finally, when dealing with dangerous machinery, does the fact that the owners of it are not occupiers of the land on which it is placed make any difference? It is submitted that the principles applicable to occupiers of dangerous premises are equally applicable in such cases, for instance, as *Excelsior Wire Rope Co.* v. *Callan* and *Mourton* v. *Poulter*, *supra*. In neither case was the defendant the occupier of the land. The words of Viscount DUNEDIN in *Excelsior Company's Case* are worth repetition: ". . . the mere fact that the appellants were not occupiers of the land on which the sheave was placed does not, in my judgment, remove the case from the category of those cases where the land was in the occupation of the person owning the dangerous machine."

This branch of law is in a curious state, and it is to be hoped that, when an opportunity presents itself, the House of Lords will seize it to lay down with clarity and precision what are the principles involved. Law lords should have no doubt as to the law—a sentiment expressed quite recently by Viscount DUNEDIN—nor should they they leave room for doubt in the minds of others.

Uniting Benefices.

THERE have recently been before the Judicial Committee of the Privy Council by way of special reference a number of schemes framed by the Ecclesiastical Commissioners under the powers of the Union of Benefices Measure, 1923, for the uniting of various benefices in certain dioceses. The Commissioners have contended generally, *inter alia*, that by joining two benefices into one the church's man power can be more widely employed by releasing an incumbent for service elsewhere, and, further, that by uniting the joint income of two benefices there will be funds set free for use in more needy parishes. The general issues of fact were, first, whether the scheme was for the spiritual welfare of the locality and of the Church at large, and secondly, whether it was equitable to take money from one parish and give it to another. In one recent case (*In re the Union of the Benefices of Great Massingham and Little Massingham, Norfolk* (23rd February)) the scheme proposed by the Ecclesiastical Commissioners was opposed by the rector of Little Massingham, who is also the patron of the living; the parochial church council of the parish of Little Massingham; the patron of the living of Great Massingham; and a landowner who represented the tithe payers in both parishes. Their lordships, in giving a reserved judgment allowing the appeal against the scheme, pointed out that the case raised a question of principle. After referring to s. 2, sub-s. (6), of the Measure of 1923, they continued: "To justify a union it is not enough to show that one incumbent could serve the parishes affected, and that a union would therefore save man power and might also produce surplus income available for other benefices. The circumstances and interests of the parishes themselves must be regarded." In the present case each of the parishes concerned was a complete unit, fully equipped with all that was necessary for parochial church life, and it was admitted that the union must result in a measure of loss to the parishioners, and that no advantage could be indicated as likely to accrue to them. Great opposition to the scheme, in fact, had been made practically unanimously within the parishes. In the result their lordships referred to *In re the Parishes of Gussage All Saints and Gussage St. Michael* (reported only in 69 SOL. J. 493), and said that the principles involved were recognised and applied in that case,

and required, in the present case, a conclusion unfavourable to the proposed scheme. In the *Gussage All Saints Case, supra,* heard on the 20th March, 1925, Lord CAVE, L.C., said that the circumstances of the case were rather peculiar and that they had never before had such a united opposition as was presented to that scheme. It was to be observed, said Lord TOMLIN, in the present case, that except so far as it was to be found in s. 2, sub-s. (6), of the Measure of 1923, there was no statement in the Measure of the principles which were to govern the union of benefices. Further, it was notable (1) that there was no power to divert to other purposes any part of the endowment of any benefice except on the occasion of a scheme of union; (2) that where a union of benefices was proposed the question of the diversion of surplus revenue seemed, under s. 15 of the Measure, to be for the consideration of the Ecclesiastical Commissioners, not as one of the factors for determining whether there should be union, but as a point for examination after a conclusion in favour of union had been reached; and (3) that in any case there could be no diversion of revenue except for the benefit of other benefices in the same diocese.

Ademption of Gifts and Statutory Amalgamation.

[CONTRIBUTED.]

THE recent decision of LUXMOORE, J., in *In re Jenkins*, W.N., 17th January, which was noted in a "Current Topic" in our issue of 7th February, appears to be one of those cases where the effect of the judgment is to defeat the probable intention of the testator, and, although it turned upon the construction of a private Act of Parliament, it is one of considerable public importance, inasmuch as the section upon which the learned judge held the question turned was in the same terms as the common form clause adopted in all the amalgamation schemes authorised by Orders in Council under the Railways Act, 1921, and was the subject of a decision by RUSSELL, J., in *In re Anderson* [1928] W.N. 46, to the contrary effect. The testator, it may be recalled, made a will in 1913 by which he gave "the sum of £3,500 and all other moneys that I may at my death possess invested in the Swansea Harbour Trust" to his daughter for life, with a gift over to her issue as she should appoint, and, in default, equally. At that date the testator owned £3,500 4 per cent. Harbour Trust Stock. In 1923 the various docks in South Wales were purchased by the Great Western Railway, and by a special Act of Parliament the undertaking of the Swansea Harbour Trust was vested in the railway. The Act cancelled the original Harbour Trust Stock, and under it the holders received somewhat smaller sums of Great Western 4 per cent. Preference Stock. The testator received £2,800 Great Western Stock for his holding and remained in possession of it up to the date of his death, which occurred in 1928. The representatives of the residuary legatee who had predeceased the testator took out a summons to determine whether the Great Western Stock passed under the gift of the Swansea Harbour Stock.

The question turned, the learned judge held, upon s. 12 of the special Act, which provided that stock of the company substituted for stock of the harbour trustees should be held upon and subject to the same trusts and powers as affected the stock for which the company's stock was substituted, and any reference in any Act of Parliament, deed, will or other document to any such stock should be deemed to be a reference to the stock of the company substituted therefor under the Act.

LUXMOORE, J., held in a considered judgment that the section did not apply on the ground that the words used could only refer to existing trusts, and were not wide enough to extend to dispositions coming into effect at a future date, and, secondly, that the final words of the section were merely complementary to the earlier part and could not extend its operation. He held there was no "reference" to "stock" within the meaning of s. 12, as the word "stock" did not occur in the will. But the only security the testator owned for the "moneys" he had invested in the Harbour Trust consisted of stock of that trust to the value of £3,500, and although he did not use the word "stock," it is submitted that there was a "reference" in his will to that stock, which would clearly have passed if other stock had not been substituted therefor by statute. Apart from the question whether the case comes within the language of s. 12 of the special Act, the decision of the learned judge appears to conflict with the general rule *falsa demonstratio non nocet.* In *Re Jameson* [1908] 2 Ch. 151, a testatrix bequeathed all her shares in the Wensleydale and Swaledale Banking Company. There was no such bank either at the date of her will or that of her death, but she had formerly held shares in a bank of that name which before the date of her will had been amalgamated with and its shares exchanged for those of Barclays Bank, and it was held by EVE, J., without any hesitation, that the Barclay shares passed under the bequest.

In the present case there was no misdescription in the will, and the testator never dealt with the stock; but it was cancelled and other stock substituted for it by statute. The learned judge appears to have strictly applied the rule contained in s. 24 of the Wills Act, that a will must be construed to speak and take effect as if it had been executed immediately before the death of the testator. But this rule is subject to an exception—unless a contrary intention appears, and the testator could not have intended to dispose by his will of stock which was not in existence at the date of his death. He meant to refer to the moneys invested in a certain undertaking, and the fact that the undertaking had been vested by statute between his will and his death in new owners should not affect his intention at all. The latter words of s. 12—which in some of the smaller absorption Orders under the Railways Act, 1921, are the only words used—are quite general, whatever the date of the document referred to, and constitute, it is submitted, a statutory exclusion of the rule of ademption in all such cases. All the railways in Great Britain, with the exception of the original Great Western Railway, are now grouped into companies with names which did not exist until the schemes under the Act of 1921 came into effect, and as there is believed to be over £1,000,000,000 nominal capital invested in British railways, the point is not unlikely to arise again. The decision, therefore, is one on which it appears desirable to obtain the opinion of a higher tribunal.

Company Law and Practice.

LXVII.

THE QUALIFICATION OF DIRECTORS.—I.

THE constitution of the board of a company is a matter of great moment to the shareholders, for reasons too obvious to recapitulate; just recently, the constitution of the boards of our railway companies has been the subject of discussion, and one of the issues which has been raised by the discussion is the old and familiar one as to whether or not it is essential, or desirable, that the directors should be substantially dependent for their own livelihood upon the material prosperity of the company the fortunes of which they direct. It is neither within the scope of my employment, nor is it my intention, to discuss in this column a subject like this, which, though of absorbing interest to some persons, and probably in particular to a fair proportion of the readers of this column, is one which must be, to some extent, at any rate, controversial.

What I do propose to do, however, as being properly within the scope of this article, is to examine the general law on the

subject of the qualification of directors, with reference to companies limited by shares and registered under the Companies Acts; the railway companies mentioned above stand, of course, on a totally different footing. One may well start an examination of the subject by observing that the Companies Act, 1929, does not require that a director of a company should hold a share qualification at all, though, it does, as we shall see later, deal with the position when the articles of the company require him to hold a share qualification. But though such a qualification is not necessary, articles of association almost invariably do contain some provision requiring directors to hold a share qualification; for instance, Table A, art. 66, says that the qualification of a director shall be the holding of at least one share in the company.

The Stock Exchange also requires, as a condition precedent to the granting of an official quotation, that the articles shall contain a provision that the directors must hold a share qualification. No particular qualification is, however, required, and no doubt this omission, if it can be called such, is due to the practical difficulty of fixing some qualification which can reasonably be applied to every company, whatever form its capital takes. A proportion of the total share capital would not be satisfactory, nor would a fixed number of shares, and yet there seems to be a great deal to be said for the fixing of some share qualification which is more than illusory, if it be possible to devise some means of doing it. As an illustration of a case where a difficulty of a nature somewhat akin to this has been overcome, the difference between the minimum subscription referred to in s. 81 (1) (*d*) of the Act of 1908, and the provisions of cl. 5 of Pt. I of the Fourth Schedule to the Act of 1929 may be referred to. The share qualification no doubt presents a more difficult problem, but it should be capable of solution.

The section of the Act which is here in point in s. 141, which has been referred to in this column recently in connexion with the provision which is contained in it to the effect that the bearer of a share warrant is not to be deemed to be the holder of the shares specified in the warrant for the purpose of a share qualification article. Section 141 provides that every director who is, by the articles of the company of which he is a director, required to hold a specified share qualification, and who is not already qualified, must obtain this qualification within two months after his appointment, or such shorter time as may be fixed by the articles. It is quite usual in modern forms of articles to shorten this time to one month. The section goes on to say that the director vacates his office if he does not so obtain his qualification, or if, after the period for obtaining it has expired, he ceases at any time to hold it; and further, that a person who so vacates office cannot be reappointed until he has obtained his qualification. A fine of £5 per day is imposed upon unqualified persons acting as directors. In its original form (s. 3 of the Companies Act, 1900) it was provided that the unqualified person should be liable to pay to the company the sum of £5 for every day during which he so acted. Why the company should ever have been entitled to benefit from an infringement of this nature of the statute is not easy to see, but this is not so now.

In *Molineaux* v. *London, Birmingham & Manchester Insurance Co. Limited* [1902] 2 K.B. 589, the plaintiff was a director of the defendant company, and he held the qualification, necessary under the articles, of fifty shares. The articles of the company were then duly altered by special resolution, so as to provide that the qualification of a director should be 250 shares. It was argued on behalf of the plaintiff that he had ceased to hold his qualification within the meaning of the Act, and that he therefore ceased to be a director upon the passing of the confirmatory resolution for altering the articles in the manner indicated. But the Court of Appeal would not accept this view, COZENS HARDY, L.J., saying that it was an abuse of language to say that the plaintiff had ceased to hold 250 shares on the passing of the confirmatory resolution. "The section," the learned Lord Justice continued, "does not touch a case like the present, where, after election, the share qualification has been increased."

In such a case, then, the office of director is not vacated by the Act; though the articles may, of course, make provision for such vacation.

(*To be continued.*)

A Conveyancer's Diary.

Last week I left off having only partially dealt with the decision in *Re McKee*: *Public Trustee* v. *McKee*, now reported [1931] W.N. 64.

Contingent Intestacy after Widow's Life Interest: Rights of Widow.

It will be remembered that the case was concerned with the estate of a testator who devised and bequeathed his residuary estate to trustees in trust to pay the income to his widow for life, and after her death for the testator's surviving brothers and sisters, meaning, as Maugham, J., held, such of them as survived the widow. Some of the brothers and sisters survived the testator, but have all since died. The reversionary interest in the residuary estate expectant upon the death of the widow is therefore undisposed of.

In these circumstances, a rather difficult question arises. Section 33 (1) of the A.E.A. enacts: "On the death of a person intestate as to any real or personal estate such estate shall be held by his personal representatives"—then if the property is realty it is to be held on trust for sale, and if personalty upon trust to call in, sell and convert into money; and by s. 33 (2) the net proceeds of sale form "the residuary estate of the intestate."

As I stated last week, the learned judge held, in the first instance, that s. 33 did not apply, and that the reversionary interest was not part of the "residuary estate of the intestate," the apparent result being that s. 46, which deals only with the distribution of the "residuary estate of an intestate," also did not apply, and as that is the only section which provides for the distribution of an intestate's estate, there was no one who could claim to be entitled to the estate on the death of the widow.

I propose now to show how the learned judge surmounted this difficulty in his considered judgment. I am taking my résumé of the judgment partly from the *Weekly Notes* report and partly from the report in *The Times* for 20th February.

In the first place, s. 45 (1) of the A.E.A. is referred to. That section enacts that there shall be abolished—

> "(*a*) All existing modes, rules and canons of descent and of devolution by special occupancy or otherwise, of real estate or of a personal inheritance, whether operating by the general law or by the custom of gavelkind or borough English, or by any other custom of any county, locality or manor or otherwise howsoever."

Further, the Statute of Distributions is repealed.

Therefore, said the learned judge, it could not be held that Pt. IV of the A.E.A. did not apply to items of property about which it might be determined many years after the death that they devolved as on intestacy. That seems to be a very simple way out of the difficulty. All the old law having been repealed, the new law must necessarily apply, therefore Pt. IV of the A.E.A. must apply.

The learned judge said, however, that it did not follow that Pt. III of the Act applied to the case of a testator of whom it could not be asserted at his death that he was partly intestate. From that (and from the later part of the judgment also) it is clear that his lordship decided that s. 33 (which is in Pt. III) did not apply. Nevertheless, in the remaining part of the judgment emphasis is laid upon s. 33 (7), which can hardly have any application if the earlier sub-sections have not.

The learned judge went on to say that the will was the controlling instrument, and the provisions of the Act ought to be applied only so far as they were consistent with the terms of the will.

His lordship again pointed out the difficulty of applying s. 33 to the case of a contingent partial intestacy, so that the statutory trust for sale arose at the date when intestacy became certain or probable, for sub-ss. (1) and (2) of the section were framed as if they applied only as from the date of the testator's death. Further, the funeral expenses, etc., had, under sub-s. (2), to be paid out of the proceeds of the statutory trust for sale, and it seemed impossible to suppose that the legislature could be contemplating that the various sums paid for funeral and testamentary expenses and debts out of the estate pursuant to the provisions of the will must be recouped out of the item of property in question at some future time, nor would that be giving full effect to the provisions of the will.

Dealing with the contention on the part of the widow that the reversion expectant on her death should be sold, the learned judge said that it was not consistent with the provisions of the will that the reversion in a fund or residue, created as the testator had created it, was itself to be sold, for that reversion was not in an accurate sense a part of the testator's estate at the time of his death. There was an effective trust for sale and an effective life interest in the proceeds created by the will. The statutory trust for sale created by s. 33 (1) was not applicable, and sub-s. (2) did not apply, because the testator had stated how the funeral and testamentary expenses and debts and the legacies bequeathed by his will were to be paid. Accordingly, all the questions asked by the summons must be answered in the negative, as to answer them in the affirmative would be to disregard the provisions of s. 33 (7) of the Act.

I confess that I am unable to see what s. 33 (7) has to do with it. The learned judge decided that s. 33 (1) did not apply; sub-ss. (2) to (6) are ancillary to sub-s. (1), and can have no effect if the latter does not apply, because they deal only with the disposition of the proceeds of sale arising by reason of sub-s. (1). Having held that sub-s. (1) (and consequently sub-ss. (2) to (6) also) did not apply, I fail to understand what application can be given to sub-s. (7), which says: "Where the deceased leaves a will this section has effect subject to the provisions contained in the will."

The learned judge then turned his attention to Pt. IV of the Act which, at the commencement of his judgment, he had said must apply.

The first section to be noticed is s. 49, which enacts:—

> "Where any person dies leaving a will effectively disposing of part of his property this part of this Act shall have effect as respects the part of his property not so disposed of subject to the provisions contained in the will and subject to the following modifications."

The modifications are not material.

The learned judge came to the conclusion that the property which would fall in on the widow's death, though not within the phrase "the residuary estate of an intestate," must be subject to the provisions of Pt. IV and consequently of s. 46.

It is hardly necessary to remind the reader of the provisions of that section.

The learned judge continued that it was true that the will gave the widow a life interest in the testator's residue, but it seemed consistent with that provision (although it might be a surprising result) that on the death of the widow the residue then undisposed of should stand charged with the payment of a net sum of £1,000 to her personal representatives, with interest from the date of the death (meaning presumably the testator's death) at 5 per cent. There was no provision for any notional conversion as from the death of the testator, and no reason for thinking that any such provision should be implied. The widow was therefore precluded from claiming any further interest beyond the £1,000 and interest thereon, on the property falling into possession on her own death.

I ought to point out that s. 46 commences: "The residuary estate of an intestate shall be distributed in the manner or be held on the trusts mentioned in this section." In terms, therefore, the reversionary interest in question does not fall within the section, as the learned judge held that the expression "the residuary estate of an intestate" did not include the reversion expectant on the widow's death. It seems, however, that the expression "the part of his property not so disposed of," used in s. 49, does cover a reversionary interest of this kind, and so s. 46 is made to apply, although in terms it does not do so.

Certainly it required no little ingenuity to arrive at that conclusion although, no doubt, it was the best way out of the impasse which the Act had created.

The decision seems to involve the proposition that there may be property in respect of which a testator does not die intestate but which is nevertheless property which is undisposed of by his will.

Landlord and Tenant Notebook.

Solicitors and House Agents.

An offence which house agents are more often tempted to commit than other unqualified persons is that of preparing a lease for or in expectation of a fee. Though the matter is now dealt with in that part of the Stamp Act, 1891, which contains the law relating to "Certificates of Solicitors and Others," the offence is not purely a revenue one. The section (s. 44) follows the section which provides for penalties for practising without a certificate and which covers offences by unqualified persons who, of course, could not obtain certificates. *The Times* of 14th February last reports a case under s. 44 in which prosecuting counsel said that the section was not enacted for the benefit of the legal profession but for the protection of the public. In so saying, he was following the view taken by Platt, B., who held, in *Taylor* v. *Crowland Gas & Coke Co.* (1854), 10 Ex. 293, that the object was "to prevent ignorant persons from drawing conveyances of serious import. The legislature makes an exception in favour of serjeants-at-law," says the judgment, but continues, "and other persons of education"; we may therefore take it that the serjeants were not referred to as a species of the genus "ignorant persons." But of the other judges hearing the case (which decided that the section did not merely impose a tax, but contained an absolute prohibition, so that the offender could not claim his fee) Martin, B., thought that the enactment was made for the benefit of the legal profession; Parke, B., considered that both objects were sought; and Alderson, B., expressed no opinion on the point.

The Land Registration Act, 1925, s. 118 (formerly the Land Transfer Act, 1897, s. 10), substantially repeats the section, but also prohibits applications or lodging documents at the registry.

Apart from the decision mentioned, the section does not appear to have called for interpretation by the superior courts. It should be noted that agreements under hand are expressly excepted, and estate agents do frequently draw, prepare, and charge for drawing and preparing, tenancy agreements. And there is nothing to prevent a surveyor from settling a dilapidations notice, provided he steers clear of s. 43.

The skill so acquired often tempts those who possess it to take upon themselves more than they should, unmindful both of the law and of Pope's *dictum* relating to "a little knowledge." Vanity may be the motive rather than greed. (We recently heard a very eminent estate agent lecture on the L.T.A., 1927, and describe, in the course of his remarks, how he had been "briefed" in a recent case in which his function had

of course, been that of an expert witness.) And then motives of economy, which often proves to be false economy, may cause the layman to accept the services offered.

The difficulties which may arise when a solicitor instructed by one party finds that an estate agent is acting for another are referred to in an opinion of the Council of The Law Society, Case No. 973, in the "Law Practice and Usage of the Solicitors' Profession," 1923.

The authority of a house agent to bind his client is, of course, quite a different matter, but in the cases illustrating it, demarcation has been judicially referred to. In *Thuman* v. *Best* (1907), 97 L.T. 239, an intending tenant claimed specific performance or damages, alleging a contract made with the house agent acting for the landlord, confirmed by letter. It was held that the letter did not in fact amount to an acceptance, but apart from that, the court took the view that the duty of a house agent, instructed in the ordinary way, was limited to introducing possible tenants, and that he had no authority to conclude a contract with all its details. It was "not their business to negotiate and arrange the subsidiary clauses of the lease. That would more properly be the business of the solicitors of the parties." And while an agent may be specially instructed to sell at a definite price, and thus be authorised to contract: *Rosenbaum* v. *Belson* [1900] 2 Ch. 267, that authority is limited to concluding an open contract; he cannot bind his principal to give good and sufficient title. In *Keen* v. *Mear* [1920] 2 Ch. 574, in which an agent had taken upon himself this task, Russell, J., said: "It is no part of an estate agent's duty to deal with title."

Our County Court Letter.

LIABILITY FOR ILLEGAL DISTRESS.

In *Dubois* v. *Lintermans*, recently heard at Birmingham County Court, the claim was for £25 as damages for illegal distress, and the counter-claim was for (*a*) possession, (*b*) £4, being rent for four weeks, (*c*) £11 10s., being mesne profits for eleven and a half weeks. The plaintiff's case was that (1) he arranged to take a flat (at a rent of £13 a quarter) in the house of the defendant; (2) the latter (after ten months' absence abroad) was paid two quarters' rent in December, 1929, and further payments were made on the 28th March and 24th June, 1930; (3) on the 9th July, 1930, the defendant distrained without warning for £14 as alleged arrears of rent. The defendant's case was that (1) he let the flat at £1 a week in consideration of the plaintiff or his wife answering the door and the telephone; (2) owing to the inconvenience of weekly collections of rent, the plaintiff had been allowed to pay once every four or five weeks, especially as his pupils were in arrear with their fees; (3) there was never any question of a quarterly tenancy, and the plaintiff's cheque for £13 had been refused on the 24th June, 1930, as it was marked "quarter's rent"; (4) the bailiff had been brought in the defendant's motor car, and (as the plaintiff paid under protest within an hour) the plaintiff himself must have spread the news of the event. The jury found, however, that the tenancy was quarterly, and that the last-mentioned cheque had been accepted by the defendant. The plaintiff's damages were assessed at £10, and His Honour Judge Dyer, K.C., gave judgment accordingly (with 13s. 6d. special damage), the counter-claim being dismissed, with costs.

It is to be noted that the above distress was wholly illegal, since no rent was in arrear, and damages for annoyance and loss of reputation were recovered in accordance with *Smith* v. *Enright* (1893), 63 L.J., Q.B. 220. There may also be (*a*) an irregular distress, as where the seizure is correct, but there is a subsequent wrongful act, e.g., a premature sale, (*b*) an excessive distress, i.e., when the distrainor does not exercise a reasonable discretion as to the value of the goods seized.

CHARGES FOR USE OF FIRE BRIGADE.

In *Cullompton Parish Council* v. *Rowe*, recently heard at Tiverton County Court, the claim was for £50 17s. 9d. for services rendered by the plaintiffs' fire brigade at Halberton, outside their area. The defendant was, therefore, not entitled to such services gratuitously, but the Cullompton Police Station had received a message from a police constable on the spot, who (in the submission of the plaintiffs) was an agent of necessity for the owner of the burning property. In cross-examination, however, the officer stated that he had sent the message as a matter of routine, without reference to the fire brigade, and the further evidence was that the brigade were actually summoned by the Cullompton police officer who received the message. The defence submitted that there was no case to answer, as (1) the claim rested entirely on contract, and the plaintiffs' own witness from outside their area (viz., the police constable who sent the message) admitted that he never gave any instructions; (2) the brigade had only been called out through the excessive zeal of the recipient of the message, viz., the plaintiffs' own constable. His Honour Judge The Hon. W. B. Lindley, held that there was no evidence of contract, and judgment was therefore given for the defendant, with costs. The reported cases on this subject were reviewed in a "County Court Letter" under the above title in our issue of the 18th January, 1930, 74 Sol. J. 37.

Practice Notes.

THE CONSTITUENTS OF FRAUDULENT PREFERENCE.

A transaction may be a fraudulent preference, even in the absence of moral fraud, as shown by the recent case of *In re Draysey* at Worcester County Court. The case for the Official Receiver was that (1) the bankrupt was a licensed victualler, and (owing to illness) he had executed a power of attorney in favour of his brother; (2) the latter took over the business, and (in April, 1930) he became tenant of the hotel at a rent of £135 a year, and acquired the stock, licence and furniture at a valuation of £196; (3) no money passed, as the bankrupt was alleged already to owe £210 to his brother. It was contended that the above transactions (*a*) were effected within three months of the petition; (*b*) with the intention and dominant motive of preferring the alleged debt of the brother to those of other creditors; and (*c*) were substantially an assignment of the whole of the debtor's estate for a past debt. The respondent denied any knowledge of his brother's insolvency, as a professional valuer had estimated the value of the property (in October, 1930) at £4,000. It was further pointed out that the fixtures and fittings had been re-transferred to the brewery company, and the motion was only opposed in defence of the brother's honour. His Honour Judge Roope Reeve, K.C., made a declaration that the above transfers were an act of bankruptcy, and a fraudulent preference, and he ordered the properties to be restored to the applicant as trustee in bankruptcy, with costs against the respondent. The above subject was discussed by the Court of Appeal in *In re Drabble Brothers* [1930] 2 Ch. 211.

APPORTIONMENT OF LIABILITY FOR LEAD POISONING.

A question as to the above was recently considered at Birmingham County Court in *Cottrell* v. *Tooth; the Birmingham Corporation and Simms Sons & Cooke, Ltd., third parties.* The respondents had been the last employers, but they contended that the disease had been contracted during the applicant's previous employment with each of the third parties, who were joined under the Workmen's Compensation Act, 1925, s. 43. His Honour Judge Ruegg, K.C., observed that the amount was agreed, and liability was admitted, but it remained for the sum to be apportioned amongst the employers according

to the time the applicant was in their service. The applicant had been with the corporation (with whom he contracted the disease) for much the longest period, and they would therefore have to pay 60 per cent., while the other third party and the respondents would each pay 20 per cent. It is to be noted that, whereas under s. 43 (1) (*c*) (ii) the liability may only be shifted upon proof that the disease was contracted in the service of a previous employer, it was held in *Mallinder* v. *Moores* [1912] 2 K.B. 124 that such proof is unnecessary when merely claiming contribution (in respect of a disease arising through a gradual process) under s. 43 (1) (*c*) (iii).

THE JURISDICTION OF PILOTAGE AUTHORITIES.

In *Harrison* v. *Tees Pilotage Board*, which recently came before the County Court Judge at Middlesbrough, an appeal was heard against the respondents' reduction of the appellant from a first to a third-class pilot, in consequence of his careless navigation of a Japanese liner last October. The appellant's case was that (*a*) the respondents had made neither a revocation nor a suspension under the Pilotage Act, 1913, s. 26, and their order was *ultra vires*; (*b*) the stranding had happened on a foggy night, when the appellant mistook a new flashing light near the Seal Sands for the fifth buoy. The respondents' case was that the appellant ought not to have been where he was at the time of the accident, as there was no fog and the channel lights could be seen from a distance. His Honour Judge Richardson held that the pilotage authority had rightly found that the appellant failed in his duty by putting the ship aground. The appeal was therefore dismissed, but, in lieu of the reduction, an order was substituted of three months' suspension from the 4th December, 1930. It transpired that the appellant, a senior pilot of twenty-six years' standing, had been deprived of 40 per cent. of his income by the original order.

Legal Parables.

TWO CASES AND ONE BRIEF.

Once there were two very successful silks alike in eminence but unlike in their respective business methods.

Refresher, K.C., was both painstaking and punctilious. He never accepted a fee without at least undoing the tape of the papers in question, nor did he consider that he had accomplished his whole duty if he added a semi-colon to his junior's draft of a joint opinion. Moreover, whenever he found that he would be unable to attend to a case in court he always returned the brief promptly and in good time.

Retainer, K.C., took a different line. No set of papers was ever refused at his chambers, and he was continually engaged in several courts at once, travelling from one to another with remarkable agility. If he happened to miss one in his stride it only increased the admiration of the neglected client for his superlative worth.

One day when both the eminent silks were at a remote assize town, Refresher, K.C., was briefed in an exceedingly important matter; his attendance throughout was particularly requested. On discovery, however, that the trial day coincided with the hearing of a still more important case which he had undertaken to argue before the Court of Appeal, he returned the brief without delay.

Having been informed that it had been entrusted to his learned friend, Mr. Retainer, he was somewhat surprised to find, on taking his seat in the London train, that that capable advocate was to be his travelling companion. After they had refreshed themselves at luncheon he gathered that the course of events had been as follows: Retainer, K.C., after accepting the brief had regretfully realised that he could not attend to the case. Therefore at the consultation he had so successfully applied himself to terrifying the lay client as to his chances that the action had been settled forthwith. Further, Mr. Refresher understood that his learned friend was now on his way to argue against him in the Court of Appeal.

Moral: You can sometimes eat your cake and have it.

Obituary.

MR. J. CRANSTOUN, K.C.

Mr. James Cranstoun, K.C., died on Wednesday, the 4th inst., in London. He was called to the Bar by the Middle Temple in 1880, and went the Oxford Circuit, becoming known as an able circuit and sessions practitioner. He took silk in 1913.

MR. R. MANDERS, K.C.

Mr. Richard Manders, K.C., of Milford-on-Sea, died at sea, on Thursday, the 26th February, at the age of seventy-six. He was called to the Irish Bar in 1880 and to the English Bar by the Middle Temple in 1893. He took silk in 1903, was made C.B. in the same year, and was Registrar of Deeds and Titles, Ireland, from 1908 to 1922.

MR. JOHN CHADWICK, M.A., LL.B.

Mr. John Chadwick, of 2, Stone-buildings, Lincoln's Inn, died at his home on February 28th, at the age of 52. After a brilliant career at Pembroke College, Cambridge, Mr. Chadwick was called to the Bar by the Inner Temple in 1904. He served in the war in the R.N.V.R., and afterwards settled down in Sir Benjamin Cherry's chambers as an equity draftsman and conveyancer. He was part editor of the last edition of "Cherry and Wolstenholme," and his death is a severe loss to the Chancery Bar, where he was respected not only as an authority upon the Property Acts, but also as a very charming and helpful colleague.

COLONEL W. GIBSON.

Colonel Wilfrid Gibson, V.D., solicitor, of Hexham, died on Saturday, the 28th February, at the age of eighty-one. Admitted in 1871, he joined his uncles in partnership, and continued to practise until his death in the firm of Messrs. W. and B. D. Gibson, of Hexham. He was also clerk to the Hexham magistrates, and clerk to the Bellingham magistrates.

MR. G. F. BERNEY.

Mr. George Francis Berney, solicitor, sole partner in the firm of Messrs. Corsellis and Berney, of Norfolk-street, Strand, died in a London nursing home, on Tuesday, the 3rd inst., at the age of seventy-one. Mr. Berney, who was admitted in 1882, had been clerk to the Wimbledon magistrates for many years, and had held several public appointments, including that of clerk to the Commissioners of Taxes for the West Brixton division.

MR. D. CORY-WRIGHT.

Mr. Dudley Cory-Wright was killed by a falling tree, on Saturday, the 28th February, while walking in the grounds of his house at Dorking. Mr. Cory-Wright, who was aged fifty-eight years, was a barrister of the Inner Temple, and a magistrate for Middlesex.

MR. W. P. BOURNE.

Mr. William Percy Bourne, solicitor, of Southam, died at his home, on the 15th February. Admitted in 1889, he went into partnership with his uncle, and later practised on his own behalf. He was joined by his son, Mr. C. W. Bourne, in 1921, and together they carried on business under the name of Messrs. Bourne and Son. Mr. Bourne was clerk to the Trustees of the Southam United Charities, and had been superintendent registrar since 1914.

MR. A. H. CHARLESWORTH.

Mr. Arthur Heywood Charlesworth, solicitor, of Newcastle-upon-Tyne, died recently at his home at Monkseaton, at the

age of sixty-four. Admitted in 1889, Mr. Charlesworth had practised in Newcastle for thirty-five years, and was regarded as an authority on licensing and conveyancing.

MR. A. E. BERRY.

Mr. Albert Edward Berry, solicitor and senior partner of the firm of Messrs. Edwin Berry and Co., solicitors, of Liverpool, died suddenly on the 26th February, in his office in Moorfields. Mr. Berry, who was admitted in 1898, was in his sixty-fourth year, and, outside his profession, his chief interest was Freemasonry.

MR. W. H. CHAPMAN.

Mr. William Henry Chapman, retired solicitor, of Whitehaven, died recently at Hove, at the age of seventy-five. Mr. Chapman was admitted in 1878, and practised in Whitehaven for thirty-nine years.

Books Received.

The Incorporated Accountants' Year Book, 1931. Crown 8vo. pp. (with Index) 1064. London: The Society of Incorporated Accountants and Auditors. 3s. 9d. net.

The Law of Stamp Duties. By E. N. ALPE, Barrister-at-Law. Twenty-first Edition. 1931. Revised and Enlarged by ARTHUR R. RUDALL, Barrister-at-Law, and HERBERT W. JORDAN. pp. xxxviii and (with Index) 415. London: Jordan & Sons, Ltd. 15s. 9d. net.

Davis on the Law relating to Building Societies. By M. R. B. BOWES, B.A., LL.B., Barrister-at-Law. Fifth Edition. 1931. Royal 8vo. pp. xx and (with Index) 488. London: Sweet & Maxwell, Ltd. 27s. 6d. net.

Leading Cases in Conflict of Laws. By W. N. HIBBERT, LL.D., Barrister-at-Law. Royal 8vo. pp. xxi and (with Index) 298. London: Sweet & Maxwell, Ltd.; Stevens and Sons, Ltd. 21s. net.

A Guide to the Public Works Facilities Act, 1930. By F. N. KEEN, LL.B., Barrister-at-Law, and H. R. ASKEW, B.Sc. (Eng.), A.M.I.C.E., Barrister-at-Law. Demy 8vo. pp. xvi and (with Index) 176. London: Stevens & Sons, Ltd. 10s. net.

Mews' Digest of English Case Law. Second Edition. Sixth Annual Supplement containing the Cases reported in 1930. By AUBREY J. SPENCER, Barrister-at-Law. Royal 8vo. pp. xxii and 372. London: Sweet & Maxwell, Ltd.; Stevens & Sons, Ltd. 20s. net.

An Introduction to the History of Equity and its Courts. By HAROLD POTTER, LL.B., Ph.D. Royal 8vo. pp. v and (with Index) 109. London: Sweet & Maxwell, Ltd. 8s. 6d. net.

Elements of the Law of Contract. By A. T. CARTER, K.C. Crown 8vo. pp. xvi and (with Index) 290. London: Sweet & Maxwell, Ltd. 12s. 6d. net.

The Complete Law of Housing. By H. A. HILL, B.A., Barrister-at-Law. Royal 8vo. pp. lviii and (with Index) 423. London: Butterworth & Co. (Publishers), Ltd.; Shaw and Sons, Ltd. 25s. net.

Patents, Trade Marks and Designs. By H. T. P. GEE. Demy 8vo. pp. 47. London: Gee & Co. (Patent Agents). 5s. net.

A Bill to provide a Public Service for Conciliation. By J. J. SPRIGGE. Foreword by Sir JOSIAH STAMP, G.B.E. Demy 8vo. pp. vi and 60. London: Williams & Norgate, Ltd. 3s. net.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

Lord Chancellor Somers was born on the 4th March, 1650. He held the Great Seal for seven years, fulfilling his duties with conscientiousness and integrity. Once he went so far as to spend £100 on books relevant to an important judgment he had to deliver. His resignation was the result of party intrigue and not of any demerit on his part.

At the Bar, one of his greatest triumphs in a *cause célèbre* was the defence of the seven Bishops.

WHAT THE PRESS SEES.

More things are seen exclusively from the press box than the outer world dreams of. No murder trial, for instance, is complete without a "dramatic scene," nor, if a judge is a wit, must his court ever be without laughter.

There have been two recent instances of these conventions. In connexion with a trial for murder, the accused gave evidence and a very sober daily paper described how tears streamed down the boy's cheeks as he said that he loved the dead girl. The writer hereof was in court at the time and noticed no sign of emotion at all, but, rather, was impressed by the complete self-possession of the young man in question.

The other instance is the return of Lord Darling to active service. His demeanour on the day he took his seat again was peculiarly grave and careful, yet how certain reporters laboured to give the impression of a sportive atmosphere!—"Laughter in Court. Lord Darling back on the Bench," or again, "For four minutes Lord Darling said nothing. Then he whimsically 'got a laugh.'"

THE EMPTY PLACES.

Welcome as is Lord Darling's return, he alone cannot fill the wide breach created by the absence of so many judges on circuit or on the sick-list.

In the Temple it is being asked why, when justice tours the provinces, nearly all the "stars" should abandon the Metropolis and leave the King's Bench Division the deserted village of the law. A more liberal appointment of commissioners on circuit would have many advantages. On the one hand, it would hasten the dispatch of business, and on the other, those who are in the running for judicial honours could show their form in a few preliminary canters.

NEW HONOURS AND STRANGE GARMENTS.

The appointment of more commissioners of assize when necessary would probably be very welcome, not only to those who may hope for a permanent seat "on the Royal Bench of British Themis," but to many others, including the "out of work" silks of whom we hear somewhat.

There is a good story told of the delight evinced by Serjeant Adams at the honour of being required to replace Burrough, J. in opening the commission at Leicester when that judge was kept late at Derby. He even borrowed my lord's robes in order to make the profoundest possible impression. In this he succeeded, for he cut an unforgettable figure. The judge was very short and slight and the commissioner was very tall and well built. In consequence, Adams made his appearance in a wig almost too small to stay on his head and robes that barely reached his knees.

GREAT WRITING.

Lord Darling's recent remark on an illegible signature—that he would assume "that the writer held a very important position"—had some foundation in experience. Undoubtedly the writing of those pillars of the High Court, the Masters, has not neatness for its invariable characteristic.

Few eminent individuals, however, have gone so far as Mr. Bell, the great Chancery barrister of the beginning of the last century, who had three handwritings. One only he and his clerk could read, one his clerk could not read, and the last nobody could read.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Voluntary Conveyance —Within Three Years of Donor's Death—Whether Stamp Duty can be deducted from Estate Duty.

Q. 2159. Within three years of his death A assigned by way of gift property which was valued for stamp duty purposes at £1,400 and the stamp duty of £14 was duly paid thereon. In answer to the question whether the deceased made any gift of property within three years of his death, the executor must mention this. It is clear that the subject-matter of such a gift would be liable to estate duty. Is there any power vested in the Commissioners of Inland Revenue to make an allowance or remission on account of the fact that stamp duty at £1 per cent. has been paid on the same transaction or "passing" as that in respect of which estate duty will be claimed at a rate in the region of 3 per cent. ?

A. There is no statutory power to allow a remission of duty, but there would appear to be nothing to prevent the Inland Revenue making a practice (if they chose to do so) of allowing such stamp duty by way of analogy to the provision in s. 38 (3) of the Customs and Inland Revenue Act. 1881.

Validity of Dual Notice to Quit.

Q. 2160. A is the tenant of a dwelling-house with stabling attached held from B on a weekly rental of 17s. per week. At the commencement of the tenancy seven years ago B received 12s. per week for the house and the stable manure by way of rent in kind for the stable. The tenancy of the whole was created at the same time and occupation of the whole took place at the same time. Twelve months after the commencement of the tenancy B requested A to pay him 5s. per week for the stable instead of giving him the stable manure, and A agreed, paying since the sum of 17s. per week for the whole premises. Notice to quit has been served on A on two occasions to quit the stabling, but A has not obeyed such notices on the ground that they referred only to part of the premises comprised in the tenancy and were therefore bad. Two notices to quit have now been served upon A at the instance of B, one to quit the stabling and one to quit the dwelling-house, both expiring at the same time. Can it be reasonably argued that each notice to quit is bad as it relates to only a part of the holding comprised in the tenancy, and consequently that the two bad notices to quit do not constitute together a valid notice to quit the whole of the premises let from B to A ?

A. A's contention set out in the last paragraph of the question (viz., that two notices to quit parts do not constitute a valid notice to quit the whole) is correct. B cannot therefore claim possession until he serves a fresh notice in relation to the whole of the holding. See *In re Bebbington's Tenancy* [1921] 1 Ch. 559, in which the old cases hereon were re-affirmed.

Chief Rent Unpaid for Thirty Years.

Q. 2161. By indenture, made upwards of thirty years ago, a freehold estate of considerable extent was conveyed to A, subject to a chief rent of £X payable to B out of the hereditaments subject thereto." There is nothing amongst the title deeds or abstracts of the title to show how the chief rent was originally created, nor on which particular part of the estate it was charged. The chief rent has never been demanded or paid since the date of the conveyance. The property devolved by descent and by will to various successors of A and has been sold in lots free from incumbrances and without any mention of the chief rent in the conveyances to the purchasers. Your opinion will oblige whether payment of this chief rent could now be enforced or is effectually barred by the Statutes of Limitation.

A. It cannot be definitely said that the right to enforce the rent is barred. *Primâ facie* it is barred under ss. 1 and 5 of the Real Property Limitation Act, 1874, but if the rent itself was settled property, a reversioner or remainderman might still be entitled to enforce payment under s. 2. Moreover, it may be that the land was part only of the land charged with the rent, and the rent may have been actually paid by a person in possession of other land so charged.

Housing Act, 1925, s. 3—Recovery of Expenses for not specified in the Notice.

Q. 2162. On the 3rd June, 1929, the U.D.C. served notices on the owner of six cottages requiring him to execute certain specified works under s. 3 of the Housing Act, 1925. The owner did not appeal to the Minister of Health against the notices and the repairs were executed on the instructions of the U.D.C. and under the supervision of their surveyor. On the 30th September, 1930, the accounts were served on the owner and demand for payment made. No appeal was made or any question raised against the same. On the 1st October, 1930, the solicitors to the owner alleged that the statutory notices had been exceeded. The U.D.C. applied to the magistrates for an order for payment. Objection was taken to certain items in the accounts which are not contained in the notices of 3rd June, e.g., "To reset the oven of kitchen range, provide a new boiler and fireback to same." The oven was found to be badly cracked, and it was obviously more economical to put in a new range. In other cases the notices were not strictly adhered to for a similar reason. It is submitted that such matters could have been raised on appeal when the demands for payment were made and that the magistrates have no jurisdiction but to make the order for payment.

A. There is no express authority on the question as to what is meant to be included in an appeal to the Minister against a demand for the recovery of expenses under the section, but on principle it would seem that the intention was to give a right of appeal against the amount, and that the absence of any appeal would not debar the owner from setting up the defence that the work or part of the work done was not included in the notice at all. Supposing the notice had required the owner to re-point the brick work of the house, it could not be contended that the local authority could justify a claim for expenses of putting in a damp course. The local authority must prove the notice, the execution of the work, the cost, and the demand for same, and it is not considered that they can recover for works not properly notified. If they find different works are required they should serve a further notice.

Injury to Passer-by from Explosion.

Q. 2163. A is the tenant of a confectioner's shop which has a plate glass window fronting on to a main road. At the back of the shop behind the counter is a gas stove which the tenant uses for baking purposes. The main jets inside the

gas stove are lit by means of a pilot jet in the following manner: The pilot jet (which is attached to an arm) swings out and is ignited, it is then pushed back inside the oven and the main jet is turned on and this main jet is lit by the pilot flame. On the day in question the tenant turned on the main jets first, thus filling the oven with gas. He then lit the pilot jet and swung it into the gas-filled oven. An explosion took place, causing the plate glass window to break. In consequence, B, who was passing along the roadway at the time, was injured. Has B a claim against A for damages?

A. At common law a man was liable for damage done by fire originating on his property, but the Fires Prevention (Metropolis) Act, 1774, s. 86, removes this liability in the case of a fire begun accidentally. It was held in *Filliter* v. *Shippard* (1847), 11 Q.B. 347, that this section does not extend to fires begun either deliberately or negligently. It was held in *Musgrove* v. *Pandelis* [1919] 2 K.B. 43, that the section is also no defence in cases within the rule of *Rylands* v. *Fletcher* (1868), L.R. 3 H.L. 330. The evidence is that (1) A was negligent, and (2) the baker's oven was not an ordinary household fitting, but a dangerous object brought on to the premises at the owner's peril. The fact of the danger being unexpected does not exclude the rule in *Rylands* v. *Fletcher* as pointed out in *Musgrove* v. *Pandelis*, *supra*, at p. 47. B can therefore claim damages against A.

Scottish Solicitor—Instructing English Counsel.

Q. 2164. Can a solicitor who qualified as such in Scotland and resides in England, provided he continues to pay the annual licence fee of a practising solicitor, approach and give instructions to English counsel without employing English solicitors?

A. In view of the fact that a Scottish solicitor cannot practice in England, or be "admitted" without serving under articles in England, and is therefore for all intents and purposes a layman, so far as English law is concerned, we express the opinion that a Scottish solicitor resident in England cannot instruct counsel without the intervention of an English solicitor. As to the admission of Scottish solicitors, see Solicitors Act, 1860 (23 & 24 Vict. c. 127), s. 15.

Settled Land—Settlement ending with Death of Tenant for Life—Absolute Reversion—*Re Bridgett & Hayes' Contract*—Sale.

Q. 2165. J.H. who died on the 18th March, 1915, by his will bequeathed the residue of his estate to his wife E.H. for her life and after her decease or second marriage he bequeathed the same to his son J.W.H. The will was duly proved by E. H. alone. By deeds executed in 1929, E.H. appointed the son J.W.H. as a trustee to act with her as trustee for the purpose of the S.L.A., 1925, and as personal representative of J.H. consented to the vesting in herself as tenant for life of the freehold property bequeathed under the will. E.H. died on the 8th February, 1930, intestate, whereupon the son J.W.H. who is of full age, obtained on the 18th March, 1930, a grant of letters of administration of J.H. with the will annexed, as the residuary legatee substituted in the said will in respect of certain unadministered property belonging to J.H. It is now proposed to sell the property comprised in the will, and it is contended that as the legal estate vested in the tenant for life by the vesting deed, the proper course is to take out letters of administration to the estate of E.H., but having regard to the decision *Re Bridgett & Hayes' Contract* [1927] and that J.W.H. is of full age and absolutely entitled, can he sell without applying for such grant?

A. We agree that, as the legal estate was vested in the tenant for life, and as the settlement ends with her death, a general grant in her estate must be obtained; the grantee either effecting sale as her personal representative, or assenting in favour of J.W.H. so as to enable him to sell as absolute owner (*Re Bridgett & Hayes' Contract*, 71 Sol. J. 910). Until the grant is obtained, and J.W.H. has an assent he cannot dispose of the legal estate.

Notes of Cases.

High Court—Chancery Division.

Dunlop Rubber Co. *v.* **Golf Ball Developments, Ltd.**

Farwell, J. 17th February.

Patents—Design—Infringement—Patents and Designs Act, 1907, s. 93—Patents and Designs Act, 1919, s. 19.

This was an action for an injunction to restrain the alleged infringement by the defendants of a registered design for the markings on golf balls. The plaintiffs registered the design on 9th June, 1920. It showed a particular arrangement of the squares or indentations on the ball, and the plaintiffs alleged that the defendants had put on the market golf balls which had markings similar to those of the plaintiffs' registered design, especially those called "Penfold" and "Brumford." The defendants alleged that the plaintiffs' design did not in fact differ materially from other markings on golf balls in use before the registration of the plaintiffs' design, that the plaintiffs' golf balls as sold were not marked with the prescribed words or figures denoting registration, and that the defendants' golf balls did not in fact infringe the plaintiffs' design.

Farwell, J., in delivering judgment, said it was plain that there was only one issue, namely, whether or not the defendants' golf balls, the "Penfold" and "Brumford," in fact infringed the plaintiffs' registered design. It was not really disputed that the "Penfold" and "Brumford" balls were, so far as design was concerned, substantially the same as the "Maxfli" ball, but there were differences between the "Maxfli" and the registered design. Section 93 of the Patents and Designs Act, 1907, as amended by s. 19 of the Patents and Designs Act, 1919, provided that "design" meant "only the features of shape, configuration, pattern or ornament applied to any article which in the finished article appeal to and are judged solely by the eye." The eye here referred to was the eye of the court, and he could not listen to the evidence of persons, however expert, as to what they thought of the balls. Section 60 of the Act of 1907 prohibited a fraudulent or obvious imitation of a design. An "obvious" imitation was one which struck the observer as so like as to be almost unmistakable. "Fraudulent" presupposed knowledge of the design and deliberate basing of the imitation on it. In the present case the defendants did nothing which was in any way dishonest or fraudulent. If a design contained a feature which gripped and held the eye, another design which might be like it, but omitted the striking feature, could not be said to be an imitation of it. The action therefore failed and must be dismissed with costs.

Counsel: *Whitehead*, K.C., *Trevor Watson*, K.C., and *Reginald Jones*; *Kenneth Swan* and *R. Burrell*.

Solicitors: *Clifford-Turner, Hopton & Lawrence*; *Ward, Bowie & Co.*, for *Lane, Clutterbuck & Co.*, Birmingham.

[Reported by S. E. Williams, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

(1) Spillers, Ltd. *v.* **Cardiff Assessment Committee and Cardiff Revenue Officer.**

(2) Wirral Revenue Officer *v.* **Wirral Assessment Committee and Ellesmere Port and Whitby U.D.C. Rating Authority and Spillers, Ltd.**

(3) Plymouth Revenue Officer *v.* **Plymouth Assessment Committee and Octagon Brewery Co., Ltd.**

(4) & (5) West Derby Revenue Officer *v.* **West Derby Assessment Committee and Tate & Lyle, Ltd.**

Lord Hewart, C.J., Avory and Mackinnon, JJ.

22nd January.

De-rating—Industrial Hereditament—Claim to Include Neighbouring Premises—Meaning of "Contiguous to"—Rating and Valuation (Apportionment) Act, 1928, 18 & 19 Geo. 5, c. 44, s. 3 (2) (3).

The main question in these five de-rating appeals was the meaning of "contiguous to" in s. 3 (3) of the Rating and Valuation (Apportionment) Act, 1928. By sub-s. (2) of the Act: "For the purposes of this Act any place used by the occupier for the housing or maintenance of his road vehicles or as stables shall, notwithstanding that it is situate within the close curtilage or precincts forming a factory or workshop and used in connexion therewith, be deemed not to form part of the factory or workshop . . ." And by sub-s. (3): "Where two or more properties within the same curtilage or contiguous to one another are in the same occupation and, though treated as two or more hereditaments for the purpose of rating and valuation by reason of being situate in different parishes or having been valued at different times or for any other reason, are used as parts of a single . . . factory, or workshop, then, for the purposes of determining whether the several hereditaments are industrial hereditaments they shall be treated as if they formed parts of a single hereditament comprising all such hereditaments." In all of the five above cases the Revenue Officer contended that "contiguous to" must be strictly interpreted as meaning "touching" or "immediately adjoining." The occupiers in all cases argued that the court should deal with the question of contiguity as one of degree, and that the wider meaning of "near to" should be adopted.

Lord HEWART, C.J., said that the result of the appeals depended solely on the answer to the question "What is the meaning of 'contiguous to' in s. 3 (3) of the Act of 1928?" Each of the five cases arose out of a claim by the owners or occupiers of an "industrial hereditament" to have another property treated as part of their main industrial hereditament. In the first four cases there were other properties between the industrial hereditament and the part sought to be added; in the fifth case there was nothing between the two properties except a public thoroughfare. It ought to be the rule, and they were glad to think that it was the rule, that words were used in an Act of Parliament, correctly and exactly, and not loosely and inexactly. There was nothing in the section which necessarily led to the conclusion that "contiguous to" was used loosely and not exactly. "Contiguous to" meant contiguous to and did not in that sub-section mean "neighbouring." The appeals of the Revenue Officers in the first, second and fourth cases would be allowed, with costs; and the respondent occupiers' appeal in the third case would be dismissed, with costs. In the fifth case, where the whole space intervening between the two properties was occupied by a public highway the court acted on the admission by counsel for the Revenue Officer that the properties should be regarded as contiguous to one another on the doctrine of the extension of properties on opposite sides of a thoroughfare. The appeal of the Revenue Officer in the fifth case was allowed, with costs.

COUNSEL: *The Attorney-General* (Sir William Jowitt, K.C.), *Wilfrid Lewis*, and *Colin Pearson*, for the Revenue Officer in each case; *Comyns Carr*, K.C., and *W. C. Howe*, for the respondent company in the first case; *Konstam*, K.C., and *Austin Jones*, for the respondents in the second case; *Joy*, K.C., and *Harold Murphy*, for the respondents in the third case; *G. J. Lynskey*, K.C., and *F. A. Sellers*, for the respondents in the fourth and fifth cases.

SOLICITORS: *Treasury Solicitor*; *Wm. A. Crump & Son*, for *Gilbert Robertson & Co.*, Cardiff; *P. F. Walker*, for *Weightman, Pedder & Co.*, Liverpool; *Hedley Norris & Co.*, for *Albert Gard & Ruse*, Devonport; *Gregory, Rowcliffe & Co.*, for *Laces & Co.*, Liverpool.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law]

AMERICAN JUDGE HONOURED.

The Hon. Oliver Wendell Holmes, LL.D., D.C.L., an Associate Justice of the United States Supreme Court, has been elected an Honorary Bencher of the Honourable Society of Lincoln's Inn.

Probate, Divorce and Admiralty Division

Newbould (by his Guardian) *v.* The Attorney-General.

Lord Merrivale, P. 20th February

LEGITIMACY—LEGITIMATION *per subsequens matrimonium*—NULLITY OF PARENT'S FORMER MARRIAGE FOR INCAPACITY—EFFECT OF DECREE—DISTINCTION BETWEEN VOID AND VOIDABLE MARRIAGES—DECLARATION MADE—LEGITIMACY DECLARATION ACT, 1926, 16 & 17 Geo. 5, c. 60, s. 1, sub-s. (2).

This was a petition for a declaration of legitimacy under the Legitimacy Act, 1926, brought on behalf of an infant petitioner by his father as guardian *ad litem*. In October, 1909, the father went through a ceremony of marriage void on the ground of the other party's incapacity. In April, 1929, the present petitioner was born. In May, 1929, the father obtained a decree of nullity which was made absolute in November, 1929, and in that month the father married the mother of the petitioner. The main question before the court was whether both the parents of the present petitioner were in a position to marry at the date of the birth of the child within s. 1, sub-s. (2), of the Act, which is as follows: "Nothing in this Act shall operate to legitimate a person whose father or mother was married to a third person when the illegitimate person was born."

Lord MERRIVALE, P., in giving judgment, said that the decree of nullity in 1929, which was made in an undefended suit, pronounced the marriage of 1909 "to have been and to be" absolutely null and void owing to the incapacity of the other person. The question to be considered was whether that decree was one by which the ceremony of marriage was pronounced to have been a mere ceremony not resulting in matrimony, or whether the decree had dissolved a marriage which in fact had existed. Reference had been made to various cases in the House of Lords and in the Court of Appeal including *G.* v. *M.* (1885), 10 App. Cas. 171. It had been held that a decree of nullity for incapacity had a retrospective operation, so that when the decree had become effective it must be held that there had been no marriage at all. The pith of the matter was expressed by Lord Cozens-Hardy in *Napier* v. *Napier, otherwise Goodban* [1915] P. 184; 59 SOL. J. 560, as follows: "The Ecclesiastical Courts did not dissolve a marriage. They only declared that there had been no marriage at all." In *A.* v. *B. and another* (1868), L.R. 1 P. 559, which was an administration suit, Lord Penzance summed up the view which had been taken with respect to void and voidable marriages. The substance of the matter seemed to be that, during the lifetime of the parties to a matrimonial contract if there was ground for impeaching it in respect of the capacity of either to enter on the contract, it was a personal right of the parties only. If it was a fact that there was a disability to implement the contract of marriage, then the ceremony could be declared null and void, unless cause was shown that, by reason of some action by the complaining party, he was disabled from taking any such proceedings, and that on legal or equitable grounds he was to be bound by what had taken place. The decree of nullity obtained by the present petitioner's father in November, 1929, must have effect in this country and elsewhere. It had not been and could not be impeached. The declaration sought would therefore be made.

COUNSEL: *C. P. Harvey*, for the petitioner; *Sir Gervais Rentoul*, K.C., and *Ivan Horniman*, for the Attorney-General.

SOLICITORS: *H. S. Wright & Webb*; *The Treasury Solicitor*.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

LORD TOMLIN BACK TO THE BENCH.

Lord Tomlin, one of the Lords of Appeal-in-Ordinary, returned on Monday, the 2nd March, to the Chancery Division, where sickness has depleted the number of Judges available to deal with the litigation, and he sat as an additional Judge of the Division.

Correspondence.

Joint Deposits and Joint Investments.

Sir,—With reference to the interesting letter of "Country Solicitor," in your issue of 21st February, relative to the loss of revenue arising from the evasion of death duties by means of joint deposits and joint investments, I venture to suggest that an equally serious loss to the Exchequer may well result from the provisions of s. 17 of the Law of Property Act, 1925, which now operate to absolve a purchaser of real estate from a personal representative from requiring a certificate under s. 11 (1) of the Finance Act, 1894, clearing estate duty payable in respect of such property on the death of any owner thereof dying since 31st December, 1925.

Formerly, the duty of a purchaser to call for this certificate (obliging the vendor, as it did, to make to the Estate Duty Office a formal application specifically referring to the property in question) afforded to the Revenue a very effectual protection against the roguery of an unscrupulous executor or administrator, prepared to risk suppressing in his inland revenue affidavit the existence of any part of his testator's real estate. Now that a purchaser in such circumstances is entitled, and *semble* bound, to complete, provided no registered charge in respect of death duties is disclosed by a search at H.M. Land Registry (on which ground a purchaser would, it is submitted, be precluded from insisting upon any specific inquiry of the vendor whether the duty had been actually paid), the Revenue would appear to have been gratuitously divested of a very valuable protection from fraud.

The Revenue itself appears voluntarily to waive such protection as s. 10 of the Land Charges Act, 1925, does provide, by abstaining from exercising its right to register a land charge in respect of death duties; at any rate I have yet to experience a case in which any such charge has been so registered.

Deal. HERBERT S. BROWN.
28th February.

Societies.

The Law Society.

PRELIMINARY EXAMINATION, FEBRUARY, 1931.

The following Candidates (whose names are in alphabetical order) were successful at the Preliminary Examination held on the 11th and 12th February, 1931:—

Alan Ashcroft, Constance Maire Atkinson, Terence Aldridge Wilson Boardman, Andrew George Watson Boggon, Geoffrey Oswald Douglas Bolton, Ian Norman Brettell, Roy Brockington, Robert Lowe Brown, William Henry Justin Browne, George Irvine Leslie Burnett, Peter Reginald Burton, William Burton, Maurice Fitzgerald Carter, Leslie Cattell, Richard William Catterall, William Frederick Cearns, Ernest Neville Churchward, Norman Stanley Clare, Leonard Malcolm Cooper, Frederick Clive Copestake, Denis Cowap, Philip Spencer Craik, Gordon Cumming, Lewis Dix, Edward Hickling Dixon, Charles Lynton Dodd, Amos Eastham, Arthur John Moorhouse Ellaby, Herbert Swainson Ellis, Percy Samuel Charles Ellis, Edward Aidan Griffith Evans, Geoffrey Fellows, Leslie John Noble Fisher, Samuel Sidney Ford-Hayes, John Corscaden Gamble, Ronald Thorneloe Gardner, Peter Jervis Gordon, Ivor Francis Gurney, Maurice Juniper Guymer, Arthur Graham Harrison, John Edward Hatt-Cook, Ernest Alfred Herns, Kenneth William Highway, Francis George Holland, Antony Peter Hollick, Alan Hollings, Gilbert Edward Hollingsworth, Jessie Marion Holloway-Pike, Arthur Kenneth Horner, William Reginald Ingle, John Kennedy, John Lanyon, Basil Geoffrey Limbrey, Thomas Little, Robert George Lord, Archibald St. Gerrans Lowry, Colin McCulloch, Patrick George McGahey, William Vanderlure Martin, Gerald Tindal Methwold Methold, Frank Ben Derwent Moger, John Mortimer Moloney, Charles Wallace Morgan, Herbert Percy Mummery, John Collins Nelson, Geoffrey Birtwistle Oddie, Philip Geoffrey Padmore, Arthur Lloyd Parry, Arthur Gamble Parsons, Harry Parvin, Sidney Francis Patterson, Harold Pawson, Ronald Kent Phillips, John Stewart Philpot, William Frank Potts, Elwyn Price, Clement James Rawlings, Shirley Rayner, Arthur Henry King Robinson, Warwick Waghorn Sayers, Carmen Irene Simpson, Harold Smith, Kenneth Conway Smith, Brian Frederick Steeds, Edward Anthony Sterling, Peter John Rous Stewart, Ronald Stott, Hubert Henri Michael Sugg, Kenneth Robert Swan, Joshua Alan Sykes, Edmund John Hilary Sylvester, John Alexander Tate, Frederick Robert Errington Thairlwall, Samuel Arthur Joseph Thomas, Robert Francis Newman Thoyts, Lester Paul Tiffin, Edward Hugh Townend, William Tozer, Harold Turner, Basil John Ernest Veale, Donald Frank Edward Walker, John Eric Walker, John Eustace Kenwyn Walters, Leslie Carnaby Weatherall, John Richard Williams, Edward Randolph Wiltshire.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Hall, on Tuesday, 24th February (Chairman, Mr. W. S. Jones), the subject for debate was: "That this House disapproves of the Trade Disputes Bill." Mr. C. C. Ross opened in the affirmative. Mr. R. A. Clyde seconded in the affirmative. Mr. E. G. M. Fletcher opened in the negative. Mr. J. L. Lewis seconded in the negative. The following members also spoke: Messrs. K. Nation-Dixon, R. Ives, A. L. Ungoed-Thomas, C. F. S. Spurrell, H. W. Daniels and L. C. Masterman. The opener having replied, the motion was carried by eleven votes. There were twenty-four members and two visitors present.

At a meeting of the Society held at The Law Society's Hall, on Tuesday, 3rd inst. (Chairman, Mr. A. L. Ungoed-Thomas), the subject for debate was: "That the case of *Re Ross; Ross* v. *Waterfield* [1930] 1 Ch. 377; 142 L.T.R. 189, was wrongly decided." Mr. Kirk Glazebrook opened in the affirmative. Mr. R. Langley Mitchell seconded in the affirmative. Mr. Michael Bull opened in the negative. Mr. N. F. Burge seconded in the negative. The following also spoke: Messrs. C. F. S. Spurrell, J. C. Christian-Edwards, T. N. Jessup, Maliche (visitor), J. T. Smith, W. M. Pleadwell and L. Masterman. The opener having replied and the Chairman having summed up, the motion was lost by one vote. There were eighteen members and two visitors present.

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Legal Notes and News.

Honours and Appointments.

The Lord Chancellor has appointed Mr. ARTHUR LIONEL BRUCE THESIGER to be the Judge of the County Courts on Circuit No. 1 (Northumberland) in the place of His Honour Judge Sir Francis Greenwell, C.B.E., deceased.

Mr. L. G. H. HORTON-SMITH, barrister-at-law, and one of the Referees under the Landlord and Tenant Act, 1927, has been appointed Honorary Secretary of the Referees (Landlord and Tenant Act, 1927) Association.

Mr. H. G. CURTIS, solicitor, Town Clerk of Buxton, and formerly Town Clerk of Southend, has been appointed Town Clerk of Ramsgate.

The Bishop of Ripon has appointed Mr. G. B. LOMAS-WALKER, solicitor, of Messrs. Booth, Wade, Lomas-Walker and Colbeck, of Leeds, to be Registrar of the Diocese and Legal Secretary to the Bishop, in place of the late Major E. P. Cross.

Mr. W. E. BLAKE, solicitor, who acted as magistrate when he was Mayor of Kingston, has been appointed clerk to the Chertsey magistrates.

F.M.S. PUBLIC TRUSTEE'S DEPARTMENT.

During the year 1928 the Public Trustee, Federated Malay States, took over 16 estates from the State Official Administrators, and these were administered as trusts. In 1929, however, it is stated in the annual report of the Public Trustee's Department, all new estates of this type were taken up and administered by the Official Administrator. They numbered fourteen and are valued at nearly $146,000. During the year an amendment to the Probate and Administration Enactment was passed, empowering the Official Administrator to call for accounts from any administrator and to apply for and be granted letters of administration in his place. The object of the amendment is to provide a more satisfactory remedy than previously existed for dealing with cases of maladministration of estates.

PAINTING OF LORD HATHERLEY TO BE HUNG AT THE LAW COURTS.

The portrait group of Thomas Clarkson addressing the Anti-Slavery Convention, held in London in 1840, is being taken down from its place in the Great Hall at the Law Courts, where it has hung for a quarter of a century. It will be replaced by a processional painting of Lord Hatherley, as Lord Chancellor, proceeding in state from the House of Lords. The picture has been presented to the Law Courts by the Court of the Fishmongers' Company, for whom it was painted by Mr. H. T. Wells, R.A., in 1868.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE	EMERGENCY ROTA	APPEAL COURT NO. 1.	GROUP I. Mr. JUSTICE EVE. Witness. Part I.	Mr. JUSTICE MAUGHAM. Non-Witness
M'nd'y Mar. 9	Mr. Jolly	Mr. More	Mr. More	Mr. Andrews
Tuesday .. 10	Hicks Beach	Ritchie	*Hicks Beach	More
Wednesday. 11	Blaker	Andrews	Andrews	Hicks Beach
Thursday . 12	More	Jolly	*More	Andrews
Friday 13	Ritchie	Hicks Beach	Hicks Beach	More
Saturday .. 14	Andrews	Blaker	Andrews	Hicks Beach

DATE	GROUP I. Mr. JUSTICE BENNETT. Witness. Part II.	Mr. JUSTICE CLAUSON. Non-Witness.	GROUP II. Mr. JUSTICE LUXMOORE. Witness. Part II.	Mr. JUSTICE FARWELL. Witness. Part I.
M'n'dy Mar. 9	Mr.*Hicks Beach	Mr. Blaker	Mr.*Ritchie	Mr.*Jolly
Tuesday .. 10	*Andrews	Jolly	*Blaker	Ritchie
Wednesday. 11	*More	Ritchie	*Jolly	*Blaker
Thursday . 12	Hicks Beach	Blaker	Ritchie	Jolly
Friday 13	*Andrews	Jolly	Blaker	*Ritchie
Saturday .. 14	More	Ritchie	Jolly	Blaker

*The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The EASTER VACATION will commence on Friday, the 3rd day of April, 1931, and terminate on Tuesday, the 7th day of April, 1931, inclusive.

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is frequently very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality. 'Phone: Temple Bar 1181-2.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (1st May 1930) 3%. Next London Stock Exchange Settlement Thursday, 19th March, 1931.

	Middle Price 4 Mar. 1931.	Flat Interest Yield. £ s. d.	Approximate Yield with redemption £ s. d.
English Government Securities.			
Consols 4% 1957 or after	88½	4 10 5	—
Consols 2½%	56½xd	4 8 6	—
War Loan 5% 1929-47	103¾	4 16 5	—
War Loan 4½% 1925-45	100	4 10 0	4 10 0
Funding 4% Loan 1960-90	92½	4 6 6	4 7 0
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	93½xd	4 5 7	4 7 6
Conversion 5% Loan 1944-64	105	4 15 3	4 14 0
Conversion 4½% Loan 1940-44	100	4 10 0	4 10 0
Conversion 3½% Loan 1961	78½xd	4 9 2	—
Local Loans 3% Stock 1912 or after	65xd	4 12 4	—
Bank Stock	267½	4 9 9	—
India 4½% 1950-55	80	5 12 6	6 1 6
India 3½%	59xd	5 18 8	—
India 3%	50xd	6 0 0	—
Sudan 4½% 1939-73	98	4 11 10	4 12 3
Sudan 4% 1974	89	4 9 11	4 14 0
Transvaal Government 3% 1923-53 (Guaranteed by Brit. Govt. Estimated life 15 yrs.)	86½	3 9 4	3 18 0
Colonial Securities.			
Canada 3% 1938	91	3 5 11	4 8 6
Cape of Good Hope 4% 1916-36	97	4 2 6	4 11 6
Cape of Good Hope 3½% 1929-49	83	4 4 4	4 18 0
Ceylon 5% 1960-70	102	4 18 0	4 17 6
*Commonwealth of Australia 5% 1945-75	74½	6 14 3	6 17 6
Gold Coast 4½% 1956	99	4 10 11	4 11 4
Jamaica 4½% 1941-71	99	4 10 11	4 11 0
Natal 4% 1937	95xd	4 4 3	4 19 0
*New South Wales 4½% 1935-1945	62	7 5 2	9 17 6
*New South Wales 5% 1945-65	63	7 18 8	8 19 9
New Zealand 4½% 1945	91½	4 18 4	5 7 6
New Zealand 5% 1946	96½	5 3 8	5 7 0
Nigeria 5% 1950-60	103	4 17 1	4 16 0
*Queensland 5% 1940-60	65xd	7 13 10	8 16 10
South Africa 5% 1945-75	101	4 19 0	4 19 0
*South Australia 5% 1945-75	70	7 2 10	7 16 3
*Tasmania 5% 1945-75	71	7 0 10	7 3 0
*Victoria 5% 1945-75	70	7 2 10	7 16 3
*West Australia 5% 1945-75	70	7 2 10	7 16 3
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	66	4 10 11	—
Birmingham 5% 1946-56	103xd	4 17 1	4 16 0
Cardiff 5% 1945-65	100	5 0 0	5 0 0
Croydon 3% 1940-60	75xd	4 0 0	4 11 0
Hastings 5% 1947-67	102xd	4 18 0	4 17 6
Hull 3½% 1925-55	82	4 5 4	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	75xd	4 13 4	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	57	4 7 9	—
London City 3% Consolidated Stock after 1920 at option of Corporation	65	4 12 4	—
Metropolitan Water Board 3% "A" 1963-2003	66xd	4 9 7	—
Do. do. 3% "B" 1934-2003	67	4 9 7	—
Middlesex C.C. 3½% 1927-47	86	4 1 5	4 14 6
Newcastle 3½% Irredeemable	76	4 12 1	—
Nottingham 3% Irredeemable	66	4 10 11	—
Stockton 5% 1946-66	103	4 17 1	4 16 6
Wolverhampton 5% 1946-56	105	4 15 3	4 14 6
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	83½	4 15 10	—
Gt. Western Railway 5% Rent Charge	100½	4 19 6	—
Gt. Western Rly. 5% Preference	92½	5 8 1	—
L. & N.E. Rly. 4% Debenture	74	5 8 1	—
L. & N.E. Rly. 4% 1st Guaranteed	70	5 14 4	—
L. & N.E. Rly. 4% 1st Preference	53	7 10 11	—
L. Mid. & Scot. Rly. 4% Debenture	76	5 5 3	—
L. Mid. & Scot. Rly. 4% Guaranteed	75	5 6 8	—
L. Mid. & Scot. Rly. 4% Preference	53	7 10 11	—
Southern Railway 4% Debenture	79	5 1 3	—
Southern Railway 5% Guaranteed	99½	5 0 6	—
Southern Railway 5% Preference	89	5 12 4	—

*The prices of Australian stocks are nominal—dealings being now usually a matter of negotiation.

SOLICITOR, practising own account, desires to purchase established progressive Conveyancing and General Practice producing average net profit £1,000 per annum in London.—Box 124, Solicitors' Journal, 29 Breams-buildings, E.C.4.

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SOLICITOR, general practice and clerk to local authority in growing South Coast town, has vacancy for articled clerk. Public school man preferred Good prospects for suitable man used to country life.—Box No. 87, Solicitors' Journal, 29, Breams-bldgs., E.C.4

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MRS. FRANCES HART, deceased.—Will any Solicitor who has knowledge of a Will made by the above, late of 335, Brownhill-road, Catford S.E.6, please write to Messrs. Clifford-Turner & Co., 81, Gresham-street, E.C.2.

BARBER.—The Kin of JOHN BARBER, late of 4, Wattisfield-road, Clapton, Middlesex, who died at Hackney, Middlesex, on the 1st November, 1930, are requested to apply to the Treasury Solicitor (B.V.), Storey's-gate, London, S.W.1. (Estate about £4,000.)

RE ROSA KATE HANCOCK, deceased.—Will any person having in his possession any Wills or Draft Wills made by the above-named Deceased, late of Courtfield-gardens Hotel, Courtfield-gardens, S.W.5, please Communicate immediately with Herbert Hind, Solicitor, 15, Long-row, Nottingham?

WILL MARGARET SMITH or anyone knowing her whereabouts please Write to Philip Eric Smith, care of A. Daniels, 106, Heber-avenue, Calexico, Calif., U.S.A.?

WILL REBECCA, daughter of ALFRED and CLARA LONG, late of Colwyn Bay, COMMUNICATE with W. J. Gregory, Post Office-chambers, Colwyn Bay?

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RE WILFRID MATHIESON, deceased, late of Sheepscombe (near Stroud), Gloucestershire. Any Solicitor or other person aware of the preparation or existence of a Will made by the above-named deceased is requested to communicate with Messrs. Rooks, Wales and Co., of 16, King-street, Cheapside, E.C.2, Solicitors.

RE WALTER TODD.—Will any person who can give INFORMATION as to the whereabouts of above please communicate with the undermentioned Solicitors? In 1906 Mr. Todd resided at Brackenhill Farm, Mirfield, Yorkshire, and in 1910 at 9, Blenheim-square, Leeds, and he is a son of the late John Todd, Farmer, late of Ferrybridge, Yorkshire.—Clough, Crabtree and Ineson, Solicitors, 1, Northgate, Cleckheaton (Yorks).

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